

# Manitoba Ombuds News

## 2014-2 Ombudsman, Access and Privacy Newsletter

### Be Privacy-Wise

#### Stickers to Promote e-Privacy

Privacy-wise stickers have been created by a working group of representatives from Manitoba eHealth, Manitoba Health and Manitoba Ombudsman to remind health-care providers, support staff and trustees to protect the privacy of Manitobans when using electronic health systems.

The stickers fit on the top of your computer monitor or laptop and are easy to remove and do not leave behind a residue.

There is a series of five stickers with different privacy messages. Most of these privacy messages would also be relevant to public bodies that use electronic systems containing personal information of clients.

To request stickers, send an email to [ombudsman@ombudsman.mb.ca](mailto:ombudsman@ombudsman.mb.ca) or call 204-982-9130.

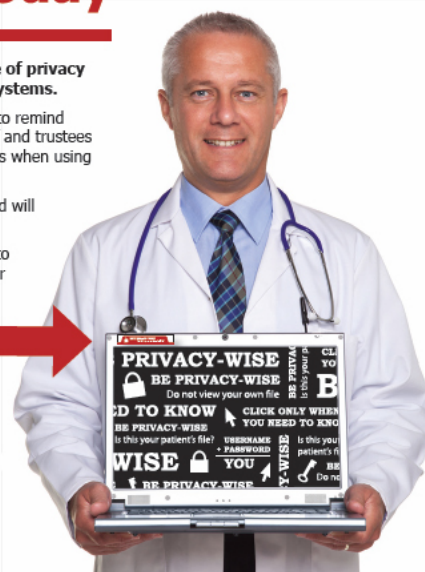
### Request your free **PRIVACY-WISE** stickers today

Remind staff of the importance of privacy when using electronic health systems.

Privacy-wise stickers were created to remind health-care providers, support staff and trustees to protect the privacy of Manitobans when using electronic health systems.

The stickers are easy to remove and will not leave residue on your monitor.

To request stickers, send an email to [ombudsman@ombudsman.mb.ca](mailto:ombudsman@ombudsman.mb.ca) or call 204-982-9130.



For more information on privacy and electronic health systems, please visit [www.gov.mb.ca/health/phia/resources.html](http://www.gov.mb.ca/health/phia/resources.html)



You can view the full-page ad for the stickers on our website at:

<http://www.ombudsman.mb.ca/info/privacy-wise-stickers.html>

If you missed our last newsletter, this working group also developed the Privacy Toolkit for Health Professionals that was launched on Manitoba Health's PHIA website. Many of the resources are relevant and useful to all trustees. You can check out the toolkit under the PHIA Resources and Links tab at: <http://www.gov.mb.ca/health/phia/resources.html>

Read our article on page 2 about viewing your own file.



## Is viewing your own information wrong?

Questions often arise about whether it is a breach of PHIA and FIPPA for employees and health professionals to view their own personal health information (PHI) or personal information (PI) maintained in a trustee's or public body's electronic information system. For example, if you work in health care and use electronic health information systems, your PHI may be contained in those systems. If your job gives you access to these systems and you want to see your PHI, should you look up yourself?

No. Access to your PHI and PI is not a self service under PHIA and FIPPA.

### Here's why self look up is wrong

When you view anyone's PHI or PI, including your own, this is considered to be a "use" of the information. The restrictions on the use of PHI and PI under Part 3 of PHIA and FIPPA require that every use must be for a purpose authorized under the acts (section 21 of PHIA and section 43 of FIPPA describe the purposes for which PHI and PI may be lawfully used).

Generally speaking, you must restrict your use of PHI and PI to only the information that you need to perform your job duties. For example, if you are providing health care or another service to a patient or client, and you need to view that individual's PHI or PI in order to provide the care or service, viewing the information would be for an authorized purpose.

Looking up your PHI or PI would not be necessary for, or in keeping with, performing your duties. The use of PHI or PI for self look up is for a personal purpose rather than a purpose related to your duties. This use would violate the

restrictions on the use of PHI and PI under the acts and would constitute a breach of the acts. This is the same reason why snooping and looking up other people to whom you are not providing health care or a service is wrong and is a violation of the acts.

Employees of public bodies and trustees and health professionals are permitted to use sensitive information about Manitobans for lawful purposes and are trusted to not abuse this privilege. Self look up violates that trust. If someone is prepared to breach PHIA or FIPPA and risk their employment and reputation by viewing their own information, it casts doubt on whether that person can be trusted to not view information about other people.

In snooping incidents investigated in Alberta a common factor was that the people who breached Alberta's *Health Information Act* to view other people's health information had also viewed their own. This doesn't mean that viewing one's own PHI causes a person to snoop, but perhaps once people have crossed the line to view their own information, they feel emboldened to view others' information.

### Here's what you should do instead

In many situations, you are able to obtain your own PHI and PI simply by asking. If a formal request is needed, the access to information process under Part 2 of PHIA and FIPPA is available and should be followed.

The acts provide a right of access to information, subject to specific and limited exceptions under the acts and the payment of any applicable fees. Specific people within a public body or trustee have responsibility for responding to access requests and making access decisions: the public body's access and privacy coordinators and officers under FIPPA or your health care provider or the trustee's privacy officer under PHIA.

Under the acts, individuals can specify and authorize another person to exercise their right of access. If an employee or health professional is authorized to exercise the access rights of another individual, such as a family member, the employee/health professional must make an access to information request under Part 2 of the acts on behalf of that individual. Looking up the information would be contrary to the employee's/health professional's job duties and would violate the restrictions on use under the acts.



## 2014 Manitoba Connections Conference

Work in a provincial government department or agency, municipal government, school division, university, college, regional health authority or health-care facility? You'll want to attend this conference.

The **2014 Manitoba Connections: Access, Privacy, Security and Information Management Conference**, is scheduled for October 6-7, 2014 at the Delta Winnipeg.

By participating in the conference you will:

- improve your knowledge in subject areas of access to information and privacy issues under FIPPA and PHIA, information security and information management,
- learn about the interconnectedness of the disciplines, and
- find practical solutions to help you meet the information challenges within these interconnected disciplines.

Manitoba Ombudsman is your official host. Verney Conference Management is coordinating the conference planning, along with an advisory committee of representatives from public bodies and trustees. The call for presentation proposals ended in early June, and

program details will be available soon.

The early bird rates are available until September 5, 2014, so register early at [www.manitobaconnections.ca](http://www.manitobaconnections.ca)

Also visit:

- The official [Twitter](#) page of the 2014 Manitoba Connections Conference, brought to you by Verney Conference Management: [https://twitter.com/MB\\_APSIM](https://twitter.com/MB_APSIM)
- [LinkedIn](#) (also brought to you by Verney Conference Management): <http://www.linkedin.com/groups/CDNPS-Connections-Access-Privacy-7450720/about>



## FIPPA tips for applicants

*The Freedom of Information and Protection of Privacy Act (FIPPA)* gives everyone the legal right to access records held by Manitoba public bodies, subject to certain exceptions. Manitoba Tourism, Culture, Heritage, Sport and Consumer Protection is responsible for administering the legislation. Under FIPPA, Manitoba Ombudsman is an independent review office with broad investigative, auditing, commenting and reporting powers.

As the oversight office for FIPPA, we investigate complaints about how public bodies respond to access to information applications and about how public bodies protect our privacy. We also provide public bodies and the public with information and education about the legislation. Because of our oversight role in dealing with access applicants

and access and privacy coordinators and officers in public bodies, we gain a good understanding of the challenges to ensuring that the FIPPA system functions well.

To assist access and privacy coordinators and officers with interpreting and applying FIPPA, we provide guidance in our practice notes, available online. We offer "Brown Bag Talks," which are informal discussions of issues of interest led by Manitoba Ombudsman staff. We also held an access and privacy conference in 2013 and have another one planned for October 2014 (see the separate article in this newsletter).

We also provide information to the public to assist in understanding and exercising access and privacy rights under FIPPA. We published our

*User's Guide to FIPPA* in 2012, which provides information about FIPPA, and includes lots of practical tips on how to gain access to information as well as how to address any privacy concerns.

To assist users of FIPPA in making applications for access, we have posted a new information sheet called *Tips for Making a FIPPA Request*. The tip sheet promotes a common sense approach to applying for records held by public bodies. We hope it can help to make the access process easier for applicants, and by doing so, also make applications easier to process when they're submitted to public bodies.

The FIPPA tip sheet is available in English and French on our website at: <http://www.ombudsman.mb.ca/uploads/document/files/fippa-tips-id-eng-fr-en.pdf>

## Ombudsman 2013 annual reports

We tabled our two 2013 reports in the legislature on May 13, 2014. Our Ombudsman Division report (the yellow one) also contains a supplementary report on the status of implementation of the recommendations made by the children's advocate as a result of their child death special investigations.

Most of our annual reports have the same basic structure from year to year – a message from the ombudsman, some noteworthy case summaries, and detailed investigation statistics – but the flavour of each year's reports changes depending on the cases and issues that arise. And as you might imagine, every year is different.

Required by law, our annual reports give us the opportunity to demonstrate our work and value to the legislature. But the reports are more than just a required annual exercise. It's a chance for us to tell our stories to a much broader audience in Manitoba and beyond our borders. We enjoy pulling those stories together for you. We hope you enjoy reading them.

You'll find our annual reports by clicking on the "annual reports" tab right on our main page at [www.ombudsman.mb.ca](http://www.ombudsman.mb.ca). Print copies are also available free of charge by contacting [ombudsman@ombudsman.mb.ca](mailto:ombudsman@ombudsman.mb.ca) or 1-800-665-0531.



## FCO corrections course

Many people are surprised when they discover that statistically, a large percentage of inquiries made to our intake unit originate from within Manitoba's correctional facilities. Ombudsman offices across the country report similar experiences. Handling and investigating corrections-related cases can be challenging and requires specialized knowledge and skills.

To assist in gaining the required knowledge and skills, the Forum of Canadian Ombudsman periodically plans and delivers a "Corrections Course." This year the course is scheduled for October 19-21, 2014, in Moncton, New Brunswick.

Acting Manager of Investigations Bob Baker and Wanda Bryant, investigator in our Brandon office, both participated in course planning. Topics that will be covered in the course include use of force, continuity of care, protective custody and administrative segregation. The two and half day course is designed for ombudsman staff members, employees of federal and provincial corrections, and other related professions that work with individuals who receive or have received correctional services.

For detailed program and registration information, please visit:

<http://www.ombudsmanforum.ca/en/?p=2757>

The Forum of Canadian Ombudsman, established in 2001, provides a network for ombudsman offices from all sectors and of all types – as well as people simply interested in ombudsman issues – to meet and to exchange information.

### Confirmed speakers include:

Charles Murray, Ombudsman (NB)  
 Barry Fleming, Q.C., Citizens' Representative (NL)  
 Bernard Richard, Former NB Ombudsman & Child and Youth Advocate  
 Todd Sloan, Solicitor, Former Investigator and General Counsel with the Office of the Correctional Investigator  
 Bob Baker, Acting Manager of Investigations, Office of the Manitoba Ombudsman  
 Paul McKenzie, Director of Investigations, Office of the Correctional Investigator  
 Bruce Tripp, Superintendent, Public Safety, Province of New Brunswick  
 Chandra Hume, Nurse Practitioner, Saint John Regional Correctional Centre  
 Len Davies, Director of Corrections, Province of New Brunswick

## New investigation reports on web

On April 29, 2014, we posted several new investigation reports under FIPPA, PHIA, and *The Ombudsman Act* on our website. Visit the Access and Privacy Division section of our site (blue) for the FIPPA and PHIA reports, and the Ombudsman Division section (orange) for the *Ombudsman Act* reports.

More investigation reports will be added to our website over the summer.

### FIPPA reports

Manitoba Health 2013-0228 - refusal of access to database records on the basis that the patient-level information in the records was personal health information of third parties that could not be reasonably severed.

Manitoba Hydro 2012-0315 - refusal to confirm or deny the existence of records related to the termination of an employee.

Manitoba Infrastructure and Transportation 2013-0086 - refusal of access to some of the information in reports related to inspection of the St. Jean Baptiste bridge on the basis that the information constituted advice and opinions developed for the public body.

Manitoba Public Insurance Corporation 2012-0392 - breach of privacy alleging that MPI did not have the legislative authority to disclose personal information related to the complainant's identity to the Canadian Border Services Agency.

### PHIA reports

CancerCare Manitoba 2011-0513 & -0514 - CancerCare's response on implementation of the ombudsman's recommendations made in cases 2011-0513 and 2011-0514 (improper use and security of personal health information).

Misericordia Health Centre and Misericordia Health Centre Foundation 2014-0012 - disclosure of personal health information and the required notice of disclosure for fundraising purposes.

Winnipeg Regional Health Authority 2013-0111 & -0113 - improper use and disclosure of personal health information by an employee of the Health Sciences Centre.

### Ombudsman Act reports

City of Winnipeg 2009-0469 and 2010-0081 - concerns regarding the process used by the city to establish and alter truck routes.

City of Winnipeg 2010-0526 - concerns about the practice of adding unpaid water bills of tenants to the property taxes of the landlord.

Selkirk and District Planning Area Board (now Red River Planning District) 2013-0138 - revocation of a building permit after it was discovered the permit was issued in error, and after construction of the home began.



## Presentations

We've been busy in the first part of 2014 delivering presentations about the work we do to a variety of audiences. We've given a number of general presentations about our work to:

- Metis Authority and its agencies
- Age and Opportunity
- Village Green (Brandon)
- William Whyte Residents Association
- Arthur E. Wright School (grade 6 classes)
- Manitoba Justice (Correctional officer training)

We've also given a number of access and/or privacy presentations to:

- Access and privacy coordinators and officers (our Brown Bag Talks)
- Human Resource Conference for First Nations, Metis and Inuit
- Manitoba Nurses Union
- Saskatchewan Privacy Summit
- Local public bodies (co-presentation with the Information and Privacy Policy Secretariat)



If you're interested in having us talk to your workplace or organization, please contact Shelley at 204-982-9135.

## Upcoming events

June 25	"Duty to Assist" Brown Bag Talk for access and privacy coordinators and officers. 12:05 - 12:50 p.m., our office. Call 204-982-9130 for details or to register.
September 22-28	Right to Know Week
October 6-7	2014 Manitoba Connections: Access, Privacy, Security and Information Management Conference <a href="http://www.manitobaconnections.ca">www.manitobaconnections.ca</a>
October 19-21	Forum of Canadian Ombudsman Corrections Course, Moncton, NB <a href="http://www.ombudsmanforum.ca/en/?p=2757">http://www.ombudsmanforum.ca/en/?p=2757</a>

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